

JAN 11 2006

MATTER NUMBER: 09736 10026595

FROM: John May **FLOOR:** 40
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RE: U.S. Patent Application Serial No.: 09/801,366
Entitled: METHOD, PROCESS AND SYSTEM....
NUMBER OF PAGES INCLUDING COVER PAGE: 3

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I hereby certify that this correspondence is being facsimile transmitted to:
Group 3600 @ (571) 272-3600 addressed to: Commissioner for Patents,
P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: January 11, 2006

Signature:

Dena S. Hill
(Dena S. Hill)

Docket No.: LA-7340-101US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Kevin W. Young

Application No.: 09/801,366

Filed: March 6, 2001

For: METHOD, PROCESS AND SYSTEM FOR
OPTIMIZED OUTCOME DRIVEN
WORKFLOW SYNTHESIS AND
REDUCTION

Confirmation No.: 4284

Art Unit: 3623

Examiner: S. L. Jarrett

Notice of Allowance:
November 9, 2005

APPLICANT HEREBY COMMENTS ON THE NOTICE OF ALLOWABILITY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby responds after receipt of the Notice of Allowability issued in the above-referenced application as follows:

Even if the experienced project manager routinely "compared tasks *** amongst a plurality of projects" and "would be capable" of performing certain functions (as contended by the Examiner in the first office action, eg at the top of page 11), it does not necessarily follow that such practices and capabilities were "old and well known in the art", as now contended by the Examiner in the Notice of Allowability. Moreover, citation of possibly relevant information in an IDS is not an "admission" that the information was "well known in the art".

Applicants are unaware of any CAFC or Supreme Court precedent that requires an applicant to traverse the prior art effect of references that are cited but not applied (or were applied only in a rejection that was successfully overcome), such that in the

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absence of an explicit traversal, the applicant is judicially estopped from later contending in other proceedings that the cited references are not in fact prior art.

Applicants did argue, and the Examiner now apparently agrees, that the cited prior art is "incapable of performing the recited process steps 'automatically'", and that there is "no suggestion or motivation [in the cited prior art] for implementing such an automated process". In particular, applicants agree with the Examiner that the Microsoft Project 200 and Scitor Project Scheduler 4 references of record "fail to teach or suggest either singularly or in combination automatically integrating an existing/controlling work breakdown structure and workflow with another work breakdown structure and workflow". Note that the newly cited Rasmus article explains to his audience of "hard core project managers" that "all the work of categorization and division must take place outside the [Scitor Project Scheduler 4] program".

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0337, under Order No. LA-7340-101US from which the undersigned is authorized to draw.

Dated: January 11, 2006

Respectfully submitted,

By 

John May

Registration No.: 26,200

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